



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

FILED

10-27-06

04:26 PM

Order Instituting Rulemaking to Implement the
Commission's Procurement Incentive
Framework and to Examine the Integration of
Greenhouse Gas Emissions Standards into
Procurement Policies.

R.06-04-009

**REPLY COMMENTS OF
SIERRA PACIFIC POWER COMPANY (U 903 E)**

October 27, 2006

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I. INTRODUCTION

Pursuant to the September 25, 2006 letter from California Public Utilities Commission ("CPUC" or "Commission") President Peevey and the October 5, 2006 *Assigned Commissioner's Ruling: Phase 1 Amended Scoping Memo and Request for Comments on Final Staff Recommendations* ("ACR"), Sierra Pacific Power Company ("Sierra") hereby provides these reply comments to the *Final Workshop Report: Interim Emissions Performance Standard Program Framework* ("Report") and its reflection of statutory authorities adopted with the codification of SB 1368.¹ Below, Sierra replies to comments filed by the Natural Resources Defense Counsel (NRDC), the Utility Reform Network (TURN), the Union of Concerned Scientists (UCS) and Western Resource Advocates (WRA), collectively "NRDC/TURN/UCS/WRA".

¹ Chapter 598, Statutes of 2006. SB 1368 added Cal. Pub. Util. Code §§ 8340 *et seq.* (*Greenhouse Gas Emissions Performance Standard for Baseload Electrical Generating Resources*) to the California code.

II. DISCUSSION

A. Sierra agrees with Comments made by NRDC/TURN/UCS/WRA that a filing and approval process should be developed for MJUs and suggests that an Advice Letter process would be appropriate.

Comments presented by NRDC/TURN/UCS/WRA support Staff's recommendation to develop a filing and approval *process* at this time for purposes of processing substantive proposals of alternative compliance consistent with the statutory framework. Accordingly, substantive debate concerning the specifics of a neighboring jurisdiction's resource planning processes and their treatment of GHG issues is not germane to this rulemaking.

Sierra agrees with these comments and reiterates its suggestion that an informational advice letter filing would be an appropriate procedural vehicle for the presentation and approval of its alternative compliance plan. Pub. Util. Code § 8341(d)(9) sets forth three exemption criteria for a multi-jurisdictional utility ("MJU") alternative compliance proposal: electrical service to less than 75,000 customers in California; a majority of retail customers outside of California; and emissions of greenhouse gases from electricity generation that are subject to review by another state utility regulatory commission. Information on all three elements is straightforward and can be readily submitted in a single advice letter filing.

In addition to the simple factual showings of the first two elements, Sierra expects that a *prima facie* showing can be presented by advice letter to support whether and how the neighboring state's regulatory bodies address resource planning and GHG issues. In the case of Sierra, information is publicly available about Nevada's integrated resource planning processes, Sierra's various updates to its Integrated Resource Plan ("IRP"), the timing of its next IRP filing (Summer 2007), and how the Public Utilities Commission of Nevada ("PUCN") will process and review issues related to the emissions and other environmental impacts from generation facilities

that supply Sierra's combined Nevada and California loads.² The legal and regulatory requirements Sierra must fulfill before the PUCN are easily verifiable and thus an appropriate subject for the streamlined filing and approval process provided via an advice letter. Since the nature of § 8341(d)(9)(B)'s "subject to review" test concerns a review of the requirements of another state's regulation, which is essentially a matter of law, an advice letter filing would be an appropriate and administratively efficient way to demonstrate whether the elements of "alternative compliance" pursuant to § 8341(d)(9) are satisfied.

NRDC/TURN/UCS/WRA also urge the Commission to permit public comment on any MJU proposal for alternative compliance under the statute. Sierra agrees, and believes the advice letter protest mechanism provided for under GO 97-A, as amended by D.05-01-032, provides an appropriate and sufficient mechanism for public comment. As noted in that decision:

an advice letter follows law and policy that have already been established by statute or Commission order. A protestant may not make "policy" arguments as a way to indirectly attack prior Commission determinations; however, a protest may properly allege that the utility in its advice letter has misapplied established policy. We have modified our list of protest grounds to make this point more clearly. Also, we add the following sentence to Rule 4.2: "A protest may not rely on policy objections to an advice letter where the relief requested in the advice letter follows rules or directions established by statute or Commission order applicable to the utility."

(D.05-01-032, p. 26.³)

Accordingly, participation by interested stakeholders through the advice letter comment / protest mechanism will allow the Commission to consider divergent views on whether the legal

² Nevada's resource planning statutes and regulations are listed at the following internet sites <http://www.leg.state.nv.us/nrs/NRS-704.html> and <http://www.leg.state.nv.us/NAC/NAC-704.html> respectively.

³ Posted at http://www.cpuc.ca.gov/word_pdf/FINAL_DECISION/43059.pdf

standards of SB 1368 have been met. Sierra stands ready to work with Commission Staff to develop an advice letter structure that will provide the requisite information for Commission and the public's analysis of the alternative compliance proposal, with an opportunity for public comment prior to Energy Division's drafting of the resolution, with subsequent comments on that draft resolution before the Commission's final decision. This approach will provide the needed due process protections, and simultaneously assure that the California PUC is not put in the position of passing judgment on the potential outcome of the Nevada Commission's IRP. Sierra believes this procedural approach will allow Sierra to move forward on its 2007 IRP proposal to the PUCN while being consistent with the Legislature's intentions as stated in SB 1368.

III. CONCLUSION

Sierra supports Staff's recommendation to develop a unique filing and approval process for MJUs and is ready to work with Commission staff in the development of such an approach.

October 27, 2006

Respectfully submitted,

By /s/

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Certificate of Service

I hereby certify that I have this day served a copy of “Reply Comments of Sierra Pacific Power Company” on all known parties to R.06-04-009 by transmitting an e-mail message with the document attached to each party named in the official service list. Parties without e-mail addresses were mailed a properly addressed copy by first-class mail with postage prepaid.

Executed on October 27, 2006 at Sacramento, California

_____/s/_____

Eric Janssen

R.06-04-009

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